

*Main Office
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
813/274-6000
813/274-6358 (Fax)*



*Post Office Box 600
200 West Forsyth Street, Room 700
Jacksonville, Florida 32201
904/232-2682
904/232-2620 (Fax)*

*2110 First Street, Suite 3-137
Fort Myers, Florida 33901
941/461-2200
941/461-2219 (fax)*

U.S. Department of Justice
*United States Attorney
Middle District of Florida*

*80 North Hughey Avenue, Room 201
Orlando, Florida 32801
407/648-7500
407/648/7643 (Fax)*

Reply to: Tampa, Florida

December 5, 2001

MAN PLEADS GUILTY TO SMUGGLING SOFTWARE

BAK TIONG PHENG, age 50 of Singapore, appeared before the Honorable Mary S. Scriven and pled guilty to a three count indictment. Count One charged trafficking and attempted trafficking in counterfeit goods; Count Two charged smuggling goods into the United States; and Count Three charged the willful infringement for financial gain of copyrighted goods .

The facts agreed to by Bak Tiong Pheng and the United States Government in the plea agreement revealed that from November 1, 1999 through February, 2001, Bak Tiong Pheng trafficked in and smuggled into the United States counterfeit, unlicensed Microsoft Corporation CD-ROMS and software, that is: Windows 98, Windows 98 Second Edition, Office 2000 Professional, and Windows NT Workstation 4.0. Bak Tiong Pheng, for the purposes of commercial advantage or private financial gain did reproduce or distribute unlicensed, copyrighted Microsoft Corporation's software without Microsoft's authorization or consent and did use Microsoft Corporation's copyright without their authorization.

Bak Tiong Pheng obtained these unlicensed, counterfeited products that had Microsoft Corporation's trademark and copyright on them, to include: CD-ROMs, computer software, labels, certificates of authenticity, and instruction manuals. Bak Tiong Pheng

would sell these products to people in the United States. Bak Tiong Pheng knew these products which had the Microsoft Corporation's trademark and copyright on them to be counterfeit. Bak Tiong Pheng also knew these products contained Microsoft's trademark and copyright, which Bak Tiong Pheng did not have their permission to duplicate, reproduce or use.

Bak Tiong Pheng would receive via the telephone or e-mail purchase orders from people in the United States for the counterfeited products. The people in the United States would then wire half the money to Bak Tiong Pheng in Singapore as part payment. Bak Tiong Pheng would then mail the unlicensed, counterfeited Microsoft products to the people in the Middle District of Florida and elsewhere. Once the people in the United States received the unlicensed, counterfeited Microsoft products, mostly the CD-ROMs and computer software, the people in the United States would then wire the remaining monetary payment to Bak Tiong Pheng.

The agreement between Bak Tiong Pheng and the people in the United States was in order to avoid detection, the packages shipped from Singapore would be labeled "blank disks" or "blank CD-ROMs," even though they were filled with products containing Microsoft Corporation's trademark and copyright. Bak Tiong Pheng labeled the shipment as "blank disks" at the request of the people in the United States. This labeling would allow the customers in the United States to avoid having to pay the customs tax and to conceal the true identity of the disks. The packages would arrive from Singapore into a Customs office on the West Coast of the United States and would then be shipped, via the mails, to the Middle District of Florida and elsewhere. Bak Tiong Pheng knew that these products with Microsoft's trademark and copyright that were shipped from Singapore had to be declared

at Custom's and that Bak Tiong Pheng or the people in the United States needed to produce written consent by Microsoft Corporation that Bak Tiong Pheng and the people in the United States could use Microsoft Corporation's trademark or copyright. Bak Tiong Pheng and the people in the United States knew that they did not have Microsoft Corporation's permission to use either its trademark or copyright.

The type and total amount of products with Microsoft Corporation's trademark and copyright shipped and ordered by Bak Tiong Pheng in the above manner are as follows: two thousand (2000) unlicensed copies of Microsoft Corporation's "Windows 98" computer software, five hundred (500) unlicensed copies of Microsoft Corporation's "Windows 98 Second Edition" computer software, one hundred twenty-five (125) unlicensed copies of "Windows NT Workstation 4.0" computer software, and five hundred and fifty six (556) unlicensed copies of Microsoft Corporation's "Office 2000 Professional" computer software. The above software was reproduced without Microsoft Corporation's consent or the consent of Microsoft to use or utilize their trademark or copyright. Bak Tiong Pheng shipped the above unlicensed, copyrighted software from August, 2000, through January, 2001, with the total retail value of the above software exceeding \$2,500.00.

A sentencing date will be scheduled shortly. Bak Tiong Pheng faces a maximum term of imprisonment of a total of 18 years, a fine of \$2,500,000, or both. The case was investigated by Special Agent Brendan Quigley of the United States Customs Office and prosecuted by Assistant United States Attorney John F. Rudy, III.